

REMARKS

Appreciation is expressed for the indication of allowability of claims 8-15 and 21 -25. Claim 8, 10, 21 and 22 have been rewritten in independent form to include the limitations of claim 1, such that these claims and claims 9, 11-16 and 23-25 dependent on them are now in condition for allowance.

Claim 16 has been amended to clarify the difference in scope between it and claim 15 in response to the objection under 37 CFR 1.75. Independent claims 1, 8, 10, 21, 22 have also been amended to delete the phrase "layered in direction of growth" to avoid potential confusion.

The invention, as claimed in independent claim 1, relates to an optical semiconductor device with a multiple quantum well structure including alternating well and barrier layers, with the highest, in the direction of growth, well layer being a radiation-active quantum well layer. Claim 1 has been amended to recite that the well layers of the first composition are essentially non-radiating well layers below the radiation-active quantum well layer. This makes it explicit that the other well layers are essentially non-radiating well layers, as described in the specification at page 2, lines 2-6, page 3, lines 1-3, and col. 8, line 36-page 9, line 3.

Claim 1 stands rejected on JP10-242512. This reference describes an optical semiconductor device with multiple quantum well structures including alternating well and barrier layers, but does not describe that the well layers other than the active one at the top are essentially non-radiating. Instead, JP10-242512 teaches, to the contrary, that at least some of such layers are radiating. As noted in the Japanese Patent Office Translation, paragraph 0042, the reference describes solving "the problem that the optical output of the well layer of a center section is absorbed by the outside well layer." The reference thus does not anticipate independent claim 1, and in fact teaches away from it, such that claim 1 is allowable under 35 USC 102(b) and 103(a).

The remaining claims depend on claim 1 and are allowable with it.

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Enclosed is a \$172 check for excess claim fees. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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